IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.686 OF 2007

In the matter of Unimers India Limited.

1. Jitendra Mangalbhai Jhaveri
2. Mrs.Nirupama Jitendra Jhaveri ... Petitioners

Mr.R.N.Bhagattjee for the Petitioners.
Mr.S.C.Naidu with T.R.Yadav and S.R.Ingale i/by C.R.Naidu & Co. for the Respondent.

CORAM : A.M.KHANWILKAR, J.

DATED : DECEMBER 07, 2007.

P.C.

1. Having regard to the stand taken by the Respondent in the reply affidavit, particularly in para 9 of the affidavit, I have no hesitation in taking a view that it is not a case of amount

becoming payable by the Respondent to the petitioners to qualify as debt. As per the Resolution of the debenture holders dated 12th April 2006 which decision will be binding on the petitioner, it has been decided that the interest payable on the debentures shall stand reduced to 8.25% per annum on and with effect from 1st April 2005 and further that the debentures would be paid in five annual instalments commencing from 31st March 2008. So long the said resolution has not been challenged by the petitioners and is still subsisting, the petitioners will be bound by the said resolution. The purport of that resolution is that the liability of the respondent will commence on or from 31st March 2008 and not in earlier point of time. It is not necessary for this Court to examine other questions raised on behalf of the respondent-company. Suffice it to observe that as the petitioners fall under the category of secured creditors, it cannot be held to be a case of amount accrued and becoming payable in view of the aforesaid resolution. There is no reason to interfere with this petition.

2. Accordingly, petition is disposed off

with liberty to the petitioners to take recourse to such remedy as may be permissible in Law, which will be decided on its own merits in accordance with law.

[A.M.KHANWILKAR, J]